



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,204	11/17/2003	Issac Karpel	7001-A03-002	2249

27317 7590 07/20/2005

FLEIT KAIN GIBBONS GUTMAN BONGINI & BIANCO
COURVOISIER CENTRE II, SUITE 404
601 BRICKELL KEY DRIVE
MIAMI, FL 33131

EXAMINER

GEHMAN, BRYON P

ART UNIT	PAPER NUMBER
----------	--------------

3728

DATE MAILED: 07/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Tata

Office Action Summary	Application No. 10/715,204	Applicant(s) KARPEL, ISSAC	
	Examiner Bryon P. Gehman	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, line 1, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). In line 4, "the intermediate panels" lack antecedent basis. In line 5, the end plates are insufficiently defined to render "being foldable down" definite. In line 8, "a small article" is inconsistent with line 1, "small articles". In line 9, the end plates are insufficiently defined to render "folded down" definite.

In claim 11, the box structure is insufficiently defined to render definite the meaning of "one side" and "the opposite side".

In claim 12, line 1, "is configure" is ungrammatical.

In claim 14, line 2, "the wrap-around" lacks antecedent basis.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

Art Unit: 3728

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 3, 5-6, 9-10 and 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Brody (3,814,220). Disclosed is a rigid case for carrying small articles, comprising a wrap-around structure composed of a plurality of panels (18, 16, 20, 44), a pair of end plates (22, 24) articulated to opposite ends of one of the panels (16), the rigid case in one condition (as in Figures 3 and 4) having the end plates extending vertically from the one panel to carry small articles, and in another condition having the end plates folded down onto the one panel (see Figure 2).

As to claim 3, the panels are composed of metal.

As to claims 5 and 6, a latch or latching (38) is disclosed.

As to claim 9, the end plates are opposed ends of a box structure.

As to claim 10, see adjacent panels (16 or 20 or 44).

As to claim 13, panels 44 and 20 together can be considered a single panel divided by a hinge (at 42).

As to claim 14, the end plates are flanged.

5. Claims 1, 3-6, 9-10 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by McLane (5,673,788). Disclosed is a hard case for carrying a small article, comprising a wrap-around structure composed of a plurality of panels (16, 18, 20), a pair of end plates (each plate defined by portion 34) articulated to opposite ends

of one of the panels (16 or 18), the hard case in one condition (as in Figure 3) having the end plates extending vertically from the one panel (not shown) to carry a small article, and in another condition having the end plates folded down onto the one panel (see Figure 1 or Figure 4).

As to claim 3, the panels are composed of plastic.

As to claim 4, the panels have cushioning (4 and 6).

As to claim 5, a latch (28 and 30) is disclosed.

As to claim 6, latching (30, 96, 100, 102) is provided.

As to claim 9, the end plates are opposed ends of a box structure.

As to claim 10, see Figure 10 and adjacent panel (22).

As to claim 14, the end plates are flanged (at 36).

6. Claims 1, 3-6, 9-11 and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Redzisz (2003/0010780). Disclosed is a rigid case for carrying small articles, comprising a wrap-around structure composed of a plurality of panels (100-106), a pair of end plates (108, 112) articulated to opposite ends of one of the panels (104), the rigid case in one condition (as in Figure 6) having the end plates extending vertically from the one panel to carry small articles, and in another condition having the end plates folded down onto the one panel (see Figures 10-14).

As to claim 3, the panels are composed of plastic.

As to claim 4, the panels have cushioning (fabric).

As to claims 5 and 6, a latch or latching (hook and loop or zipper) is disclosed.

As to claim 9, the end plates are opposed ends of a box structure.

As to claim 10, see adjacent panels (102 or 106).

As to claim 14, the end plates are flanged (at 134).

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over either one of McLane or Redzisz. To employ cardboard as opposed to other disclosed paper materials or plastic would have been obvious to one of ordinary skill in the art as an obvious substitution of known materials.

9. Claims 1-6 and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over McLane in view of Redzisz (2003/0010780). McLane discloses a hard case for carrying a small article, comprising a wrap-around structure composed of a plurality of panels. Redzisz discloses a case for carrying small articles, comprising a wrap-around structure composed of a plurality of panels (100-106), a pair of end plates (108, 112) articulated to opposite ends of one of the panels (104), the case in one condition (as in Figure 9) having the end plates extending vertically from the one panel, and in another condition having the end plates folded down onto the one panel (see Figures 10-14). To

modify the case of McLane employing foldable rigid end plates as disclosed by Redzisz would have been obvious in order to provide a knockdown configuration of the case.

As to claims 2 and 8, to employ cardboard as opposed to other disclosed paper materials or plastic would have been obvious to one of ordinary skill in the art as an obvious substitution of known materials.

As to claim 3, the panels of each are composed of plastic.

As to claim 4, the panels of each have cushioning.

As to claims 5 and 6, each discloses a latch or latching.

As to claim 9, the end plates are opposed ends of a box structure.

As to claim 10, each discloses adjacent panels.

As to claim 14, each discloses the end plates are flanged (at 36).

10. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over McLane in view of Chang (4,823,943). Chang discloses a magnet employed as a closure securing structure. To substitute a magnetic structure for the hook and loop structure of McLane would have been an obvious substitution of securing means previously recognized in the art as taught by Chang.

11. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of Breitbach (6,142,365). Breitbach discloses a knockdown hard case including a slot (at 40) to receive an adjacent panel in a sliding arrangement. To modify the structure of either one of McLane and Redzisz

employing the slot arrangement of Breitbach would have been obvious in order to secure the panels in secured relationship, as suggested by Breitbach.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shown are knockdown cases.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571) 272-4555. The examiner can normally be reached on Monday through Wednesday from 5:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/715,204
Art Unit: 3728

Page 8

A handwritten signature in black ink, appearing to read "Bryon P. Gehman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Bryon P. Gehman
Primary Examiner
Art Unit 3728

BPG